

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

CONNIE SUE HEATH,
Plaintiff/Appellee,

v.

JOHN ELLIOT MAYER JR.,
Defendant/Appellant.

No. 2 CA-CV 2020-0117
Filed May 26, 2021

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pima County
No. C20164760
The Honorable Brenden J. Griffin, Judge

AFFIRMED

COUNSEL

Lou Spivack P.C., Tucson
By Louis M. Spivack

and

Lawrence Y. Gee P.L.L.C., Tucson
By Lawrence Y. Gee
Counsel for Plaintiff/Appellee

John Elliot Mayer Jr., Tucson
In Propria Persona

MEMORANDUM DECISION

Judge Brearcliffe authored the decision of the Court, in which Presiding Judge Eppich and Chief Judge Vásquez concurred.

BREARCLIFFE, Judge:

¶1 John Mayer appeals from the trial court’s denial of his motion to vacate its entry of final judgment and an injunction by default in favor of Connie Sue Heath against him and his solely owned limited liability company, Consolidated Industrial Group, LLC (“Consolidated”). We affirm.¹

Factual and Procedural Background

¶2 Mayer’s statement of facts fails to make sufficient and material citations to the record as required by Rule 13(a)(5), Ariz. R. Civ. App. P. We therefore rely on the facts from our earlier decision, *Heath v. Mayer*, No. 2 CA-CV 2018-0115 (Ariz. App. July 3, 2019) (mem. decision), as well as the trial court record. *See Paul R. Peterson Constr., Inc. v. Ariz. State Carpenters Health & Welfare Tr. Fund*, 179 Ariz. 474, 476 (App. 1994). In a Michigan divorce proceeding between Mayer and Heath in 2016, the Oakland County Circuit Court enjoined both parties from transferring any property titled in either of their names. Later that year, Mayer transferred real property located in Tucson to Consolidated. The Michigan court consequently granted Heath a lien against the Tucson real property. Heath thereafter filed a complaint in Pima County Superior Court under Arizona’s Uniform Fraudulent Transfer Act, A.R.S. § 44-1001 to 44-1010, claiming

¹Following the filing of the notice of appeal in this action, Mayer sought to remove this matter to federal court. Although not provided in the record on appeal, we note that counsel provided the trial court with a status report in November 2020 stating that the federal court had remanded this case. *See City of Phoenix v. Superior Court*, 110 Ariz. 155, 157 (1973) (“We take judicial notice of Superior Court records.”). The records from federal court corroborate counsel’s notice. *See Muscat by Berman v. Creative Innervisions LLC*, 244 Ariz. 194, n.2 (App. 2017) (we take judicial notice of other courts’ records); *see also In re Peasley*, 208 Ariz. 27, n.15 (2004) (same).

HEATH v. MAYER
Decision of the Court

actual and constructive fraud related to Mayer's transfer of the property to Consolidated.

¶3 Over the next few months, Mayer filed several motions to dismiss the fraudulent transfer complaint for lack of jurisdiction, all of which were denied. Due to his filing of multiple motions to dismiss on grounds already ruled upon, the trial court deemed Mayer a "vexatious litigant." Mayer was barred from filing another motion to dismiss for lack of jurisdiction without first obtaining the court's permission.

¶4 In 2018, Heath moved for entry of a final judgment and an injunction by default. The motion relied, in part, on the final judgment of divorce entered in the Michigan court, which, among other things, granted Heath a \$1.2 million money judgment against Mayer and a lien against his real property. On June 13, 2018, the trial court granted the motion and voided the deed transferring the Tucson real property to Consolidated. Mayer appealed, and we affirmed the court's entry of judgment, concluding Mayer's arguments were "illogical and incoherent" and, to the extent that he challenged the trial court's jurisdiction, he waived any such argument by failing to support it with adequate explanations and the necessary transcripts. *Heath*, No. 2 CA-CV 2018-0115, ¶¶ 5-8.

¶5 In May 2020, Mayer filed a post-judgment motion pursuant to Rule 60, Ariz. R. Civ. P., to vacate the trial court's June 13, 2018 entry of final judgment and injunction by default. Mayer claimed the Michigan judgment of divorce was void and, thus, the court's June 13, 2018 order relying on that judgment was void as well. In principal part, Mayer urged that neither the interlocutory Michigan order barring the parties from transferring property during the divorce proceedings nor the judgment of divorce were properly "domesticated." After a hearing on the motion, the trial court denied relief, determining, among other things, that Mayer had failed to demonstrate the Michigan order was void. Mayer then appealed this ruling. We have jurisdiction pursuant to A.R.S. §§ 12-120.21(A)(1), 12-2101(A)(2).

Analysis

¶6 From what we can discern of his argument on appeal, Mayer argues that the trial court lacked subject matter jurisdiction to "recognize" and adjudicate the Michigan court orders. Mayer, however, apart from mere assertion, fails to provide any legal argument supporting the claim.

¶7 As we found in Mayer's 2019 appeal, where he also attempted to argue that the trial court did not have jurisdiction to enter a particular

HEATH v. MAYER
Decision of the Court

order, Mayer has again failed to adequately raise an argument or to support it with legal authority and appropriate citations to the record. *See* Ariz. R. Civ. App. P. 13(a)(7) (requiring all arguments to contain supporting reasons for each contention, with citations of legal authorities and appropriate references to the record); *In re Aubuchon*, 233 Ariz. 62, ¶ 6 (2013); *Heath*, No. 2 CA-CV 2018-0115, ¶ 6. Consequently, he has similarly waived any argument as to jurisdiction here. *See Ritchie v. Krasner*, 221 Ariz. 288, ¶ 62 (App. 2009) (failure to comply with Rule 13(a)(6) may constitute abandonment and waiver of claim).

¶8 In support of his requested relief, Mayer also asks this court to take “mandatory judicial notice of perjury” and “ethical violations” committed by Heath’s attorneys. He claims that the Michigan judge committed perjury as well. In addition to, again, failing to comply with Rule 13(a)(7) by not providing the necessary legal authority or appropriate citations to the record, Mayer’s argument is frivolous. “The court may judicially notice a fact that is not subject to reasonable dispute.” Ariz. R. Evid. 201(b). A fact is not subject to reasonable dispute because it either “(1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” *Id.* Whether perjury or ethical violations have occurred are not appropriate matters for judicial notice.

¶9 Lastly, Mayer refers to his six attempts to force recusal of the trial court judge here. He makes no argument on this point nor does he explain why it matters, and thus we will not address it. *See State Farm Mut. Auto. Ins. Co. v. Novak*, 167 Ariz. 363, 370 (App. 1990).

Attorney Fees and Costs

¶10 Heath requests her reasonable attorney fees and costs on appeal, pursuant to Rule 25, Ariz. R. Civ. App. P., on the ground that Mayer’s appeal is entirely frivolous. She claims, “Any reasonable attorney would agree that [Mayer’s] appeal is totally and completely without merit,” and “There is . . . no support from the laws of any jurisdiction.” Because we agree that Mayer’s claims “indisputably [have] no merit,” *see Price v. Price*, 134 Ariz. 112, 114 (App. 1982), we award Heath her reasonable attorney fees and costs on appeal pursuant to Rule 25 and upon her compliance with Rule 21, Ariz. R. Civ. App. P.

Disposition

¶11 For the foregoing reasons, we affirm.